

AGENDA MEMO

CITY COUNCIL MEETING DATE: JUNE 20, 2007

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: VAR-21632 - APPLICANT: NEVADA POWER COMPANY -
OWNER: CHARLES AND VIRGINIA GORMLEY**

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (5-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. This approval shall be void one year from the date of final approval, unless a Parcel Map such as PMP-17750 has been issued. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This application is for a Variance to allow a ten-foot rear yard setback where a 20-foot setback is the minimum required for an existing commercial building at 7185 West Charleston Boulevard. A Parcel Map (PMP-17750) has been submitted to divide the existing parcel ten feet south of the existing structure for a proposed Electric Utility Substation. A related Site Development Plan Review (SDR-20282) will be considered concurrently, as well as a Vacation (VAC-20284) of a patent easement, and a Variance (VAR-21724) for a 15 foot perimeter wall in association with the proposed substation.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
02/23/89	The Board of Zoning Adjustment approved a Variance (V-0163-88) to allow an office and storage addition to an existing restaurant with 98 spaces where the use requires 209 spaces.
1/26/98	The City Council approved a request to amend the General Plan (GPA-0065-97) on property located at 7185 W. Charleston Boulevard from ML (Medium-Low Density Residential) to SC (Service Commercial). The Planning Commission recommended approval of the General Plan Amendment on 12/18/97.
1/26/98	The City Council approved a request for a Rezoning (Z-0121-97) on property located at 7185 W. Charleston Boulevard from U (Undeveloped) Zone [ML (Medium-Low Density Residential) General Plan Designation] and C-1 (Limited Commercial) Zone [SC (Service Commercial) General Plan Designation] to C-1 (Limited Commercial) Zone. The Planning Commission recommended approval of the proposed Rezoning on 12/18/97.
11/07/02	The Planning Commission recommended approval of a Site Development Plan Review (SDR-1014) This application is a request for a Site Development Plan Review and a reduction of the on-site perimeter landscaping requirements for a proposed restaurant on a 4.9 acre parcel at 7185 West Charleston Boulevard that includes the subject site. Staff recommended approval.
11/30/06	A Parcel Map (PMP-17750) was administratively denied by the Planning and Development Department, and will be reconsidered once the specified conditions are addressed. Blue line was reaccepted for processing on 04/23/07.
04/26/07	The Planning Commission held in abeyance a related Site Development Plan Review (SDR-20282) for an Electric Utility Substation and a Vacation (VAC-20284) of a patent easement until the May 24, 2007 meeting.

05/24/07	<p>The Planning Commission recommended approval of companion items VAR-21724, SDR-20282 and VAC-20284 concurrently with this application.</p> <p>The Planning Commission voted 5-0 to recommend APPROVAL (PC Agenda Item #40/rl).</p>
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<i>Related Building Permits/Business Licenses</i>	
04/02/86	Application first filed for a Business License (R09-0025-6-030783) for Restaurant - Seating 45 or more for The Hush Puppy Restaurant adjacent on the subject site.
01/24/91	Active Business License (F09-00018-3-095215) first issued for Food Wholesale & Delivery to Scotties Food on the subject site.
02/06/90	Active Business License (L16-00207-4-000691) first issued for a Tavern to The Hush Puppy on the subject site.
07/19/91	Active Business Licenses (G01-01455-4-000530) for Gaming Restricted and (C20-01455-7-000530) for Convention Hall Gaming Tax first issued to The Hush Puppy adjacent on the subject site.
04/11/05	Building Permits issued for a drive thru and pole sign for the expansion of the Hush Puppy Restaurant on the subject site.

<i>Pre-Application Meeting</i>	
11/07/06	A pre-application meeting was held to discuss the proposed electric substation. The discussion focused largely on on-site and off-site improvements, necessary street improvements and access agreements.
02/20/07	A follow-up meeting was held in order to further discuss progress on the required street improvements and site access issues.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application, nor was one held.	

<i>Field Check</i>	
03/22/07	A field check was conducted in order to ascertain site conditions as they pertain to the proposed Electric Utility Substation and related Vacation.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	2.69

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped, Proposed Electric Substation	SC (Service Commercial)	C-1 (Limited Commercial)
North	Restaurant, Tavern, Retail, Office	SC (Service Commercial)	C-1 (Limited Commercial)

South	Undeveloped	DR (Desert Rural Density Residential)	R-E (Residence Estates)
East	Apartments	M (Medium Density Residential)	C-1 (Limited Commercial)
West	Office	SC (Service Commercial)	R-PD19 (Residential Planned Development – 19 Units Per Acre)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	NA
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	NA
Trails		X	NA
Rural Preservation Overlay District		X	NA
Development Impact Notification Assessment		X	NA
Project of Regional Significance		X	NA

DEVELOPMENT STANDARDS

Pursuant to Title 19.08, the following Development Standards Apply:

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	NA	119,871 SF	Y
Min. Lot Width	100 Feet	342 Feet	Y
Min. Setbacks			
• Front	20 Feet	90 Feet	Y
• Side	10 Feet	26 Feet	Y
• Rear	20 Feet	10 Feet	N*

* Subject of this Variance

ANALYSIS

The applicant is requesting a Variance to allow an existing commercial building to be 10 feet from the rear property line where a minimum setback of 20 feet is required. The building is situated a distance of 637.54 feet from the existing rear property line; however, the applicant has submitted a proposed Parcel Map to divide the property into two separate lots. The existing businesses will remain in place on the northern 2.69 acres, and the southern 2.16 acres, if approved, would be developed as a proposed Electric Utility Substation. According to the applicant, the placement of the property line only ten feet behind the rear of the existing building is needed in order to provide sufficient space for the proposed substation. However, reconfiguring the site plan could allow the parcel to be divided ten feet farther south and conform to Title 19.08 setback requirements for the C-1 zone. Therefore, staff recommends denial.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing to divide an existing commercial parcel without heed to the required 20 foot rear yard setback. Alternatively proposing a Parcel Map that allows the existing building to meet the required 20 foot setback would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 2

SENATE DISTRICT 8

NOTICES MAILED 240 by City Clerk

APPROVALS 0

PROTESTS 1